

REMARKS/ARGUMENTS

Independent claims 9, 55 and 59 stand finally rejected as being unpatentable over JP '805 in view of JP '013. A telephone interview was held on May 5, 2008 and the arguments herein were discussed with the Examiner, but no agreement was reached.

In each of currently amended claims 9, 55 and 59, it is made clear that a plan size (or radius) of the substrate-facing surface of the atmosphere blocking member is smaller than that of the substrate by the radial width of the notch, and a peripheral edge area of the substrate-facing surface of the atmosphere blocking member is not exposed around the substrate through the notch.

The applicants cannot agree that it is necessary for claims 9 and 55 to give a specific size for the atmosphere-blocking member. Instead, the claims recite a relationship between the size of the atmosphere-blocking member and the size of the other parts of the apparatus that hold the substrate to be processed.

It is acceptable for a claim to recite a relationship between sizes of two objects, without stating the absolute sizes of the objects.

In Orthokinetics Inc. v. Safety Travel Chairs, Inc., 1 USPQ2d 1081, 1087-88 (Fed. Cir. 1986), the Federal Circuit had before it claim 1 of U.S. Patent Re. 30,867 (the '867 patent), which recited, in part:

1. In a wheelchair having a seat portion, a front leg portion, and a rear wheel assembly, the improvement wherein said front leg portion is so dimensioned as to be insertable through the space between the doorframe of an automobile and one of the seats thereof...

1 U.S.P.Q.2d at 1082. The defendant in this infringement case attacked

claim 1 as being indefinite under 35 U.S.C. 112, second paragraph, id. at 1087-88, on the ground that no specific wheelchair size was given in the claim. The court rejected this argument, and stated, in part:

The claims were intended to cover the use of the invention with various types of automobiles. That a particular chair on which the claims may read may fit within some automobiles and not [others] is of no moment. The phrase "so dimensioned" is as accurate as the subject matter permits, automobiles being of various sizes. ...The patent law does not require that all possible lengths corresponding to the spaces in hundreds of different automobiles be listed in the patent, let alone that they be listed in the claims.

Id. at 1088, citing Rosemount, Inc. v. Beckman Instruments, Inc., 221

U.S.P.Q. 1,7 (Fed. Cir. 1984).

As well known in the art, the size of the silicon wafer for MOS devices was first 6 inches, then it became 8 inches, and the size of 12 inches is currently more and more used. However, the size of 4 or 5 inches is still used for a small chip sizes such as those of diodes. The substrate processing apparatus has been designed and manufactured according to the change of the size of the substrate-to-be-processed. However, the substrate processing apparatus and its component parts have predetermined size relationships, regardless of the size of the substrate-to-be-processed. That is, the substrate processing apparatus for the 6 inches and that for the 12 inches function the same if the processing to perform on the substrate is the same.

Further, as well known to one of ordinary skill in the art, in designing the apparatuses disclosed in JP '805, in Wen (U.S. Patent No. 6,239,038), and in the present claims, the size of

the substrate-to-be-processed is first determined, and then, the structure of the various parts of the apparatus (including the size of the atmosphere blocking member) is designed in accordance with the determined size of the substrate-to-be-processed. To be more specific, the size of the atmosphere blocking member is determined based on the size of the substrate-to-be-processed.

Hence, as now recited, the element “a plan size of said substrate-facing surface of said atmosphere blocking member is smaller than that of said substrate by the radial width of the notch” is a clear structural limitation because the size of the substrate-to-be-processed is already determined in advance.

Therefore, the size of the atmosphere-blocking member is definite since the size of the substrate to be processed is already determined. That is, it is possible to determine whether the claim is infringed even when the “substrate” is not included, because the size of the substrate-to-be-processed of the substrate processing apparatus in question can be clearly understood by one of ordinary skill in the art.

Further, the other recited element, “said atmosphere blocking member is so constructed and arranged that a peripheral edge area of said substrate-facing surface thereof is not exposed around said substrate through the notch” is also a structural limitation. It is definite because it is essentially a relation between the size of the atmosphere-blocking member and the other components, which are sized for receiving a particular substrate size. And further, this relationship is not disclosed in any of the cited references.

Hence, currently amended claims 9 and 55 are not suggested by any combination of the cited references.

Particularly, in each of Figs. 2a to 2d of JP ‘805, a plan size of the substrate-facing

surface of the atmosphere blocking member is larger than that of the substrate, and a peripheral edge area of the substrate-facing surface of the atmosphere blocking member is exposed around the substrate. Hence, JP '805 teaches away from the claimed invention.

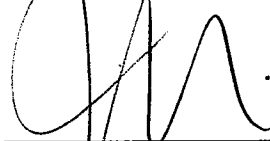
Note further that claim 59 positively recites a combination of a substrate and a processing apparatus having the claimed size relationship, and therefore is not subject to the Examiner's objections regarding claims 9 and 55.

As described above, the cited references do not teach or suggest the claim limitations. Therefore, the rejection of amended claims 9, 55 and 59 and their dependent claims under 35 U.S.C. 103 should be withdrawn.

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Respectfully submitted,



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